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The parties are directed to file a response to Agra's October 20th letter (Doc. 27) by 11/4/2022. The case management conference will proceed as scheduled on 11/9/2022 at 10:00 a.m. in Courtroom 520 of the White Plains courthouse.

The joint letter concerning settlement/mediation which was due 10/12/2022 shall likewise be filed by 11/4/2022.

SO ORDERED.

Philip M. Halpern
United States District Judge

Dated: White Plains, New York
October 31, 2022

VIA ECF

Hon. Philip M. Halpern
Hon. Charles L. Brieant Jr. Federal Building
300 Quarropas Street, Room 530
White Plains, New York 10601

Re: *Torres, et al. v. Capcon Construction Industries Corp., et al.*, 21-cv-6771-PMH

Dear Judge Halpern:

I represent Agra Masonry Inc. ("Agra"), a named defendant in the above-referenced action. The plaintiffs allege violations of the Fair Labor Standards Act and New York Labor Law overtime provisions and certain technical violations of the NYLL. I write because the defendants have refused to schedule depositions despite previously representing that the parties would work in good faith to schedule such depositions and jointly requested from the Court an extension of time to complete discovery.

On March 17, 2022, the Court entered an initial case discovery plan and scheduling order that provided for depositions to be completed by June 15, 2022. On June 29, 2022, counsel for co-defendants wrote to the Court on behalf of all defendants to request a 45-day extension to complete discovery because the defendants' counsel had twice ignored requests to schedule the defendants' depositions. D.I. 23. The Court granted that request and extended the time to complete discovery to August 29, 2022 and set a case management conference for October 4, 2022. D.I. 24. Following correspondence throughout July, and due to scheduling issues in August, the parties jointly requested a second extension in order to conduct the defendants' depositions in September. D.I. 25. The Court extended the discovery deadline to September 29, 2022. D.I. 26. The defendants, however, would not respond to further requests to set dates for depositions.

Given the defendants' refusal to participate in the court-ordered discovery, I request on behalf of all defendants a conference with the Court to discuss the discovery status and either compel the defendants to be deposed or strike the complaint.

I am available to discuss any aspect of this letter at the Court's convenience.

Very truly yours,

Michael B. Ershowsky, Esq.